

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DR. JOHN SAMPLES,  
Plaintiff,

v.

ELISABETH RAINSBERGER,  
Defendant.

No. CV 06-20-AS  
OPINION & ORDER

**MOSMAN, J.,**

On August 3, 2007, Magistrate Judge Ashmanskas issued Findings and Recommendation ("F&R") (#78) in the above-captioned case recommending the plaintiff's Motion for Partial Summary Judgment (#50) be denied. Defendant filed timely objections (#82).

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo*

or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Ashmanskas's recommendation, and I ADOPT the F&R as my own opinion. Accordingly, plaintiff's Motion for Partial Summary Judgment (#50) is DENIED.

IT IS SO ORDERED.

DATED this 28th day of November, 2007.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Court